

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JUAN JONES,

Defendant-Appellant.

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UNPUBLISHED

August 23, 1996

No. 184482

LC No. 94-005693

Before: Gribbs, P.J., and Young and W.J. Caprathe,\* JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial conviction for possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv). Defendant also pleaded guilty to being a second habitual felony offender, MCL 769.10; MSA 28.1082. Defendant was sentenced to one to twenty years of imprisonment as an habitual second offender. We affirm.

Defendant argues that the evidence was insufficient to establish that he aided and abetted his codefendants Percy Goston, Winston Collins, and Larry Gardner. We disagree.

A conviction for possession with intent to deliver less than fifty grams of cocaine requires proof (1) that the recovered substance is cocaine; (2) that the cocaine is in a mixture weighing less than fifty grams; (3) that the defendant was not authorized to possess the substance; and (4) that the defendant knowingly possessed the cocaine with intent to deliver. *People v Wolfe*, 440 Mich 508, 516-517; 489 NW2d 748, amended 441 Mich 1201 (1992). The prosecution can establish guilt for possession with intent to deliver on an aiding and abetting theory by proving that a defendant knowingly gave direct or indirect encouragement to aid the commission of the crime with the intent to help the possessor obtain or retain possession. *People v Sammons*, 191 Mich App 351, 371; 478 NW2d 901 (1991).

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\* Circuit judge, sitting on the Court of Appeals by assignment.

During an undercover assignment, Officer Lightfoot observed defendant standing on a street corner, selling suspected narcotics, while his codefendants were selling suspected narcotics nearby. On several occasions, defendant supplied his codefendants with suspected narcotics for sale to their “customers.” Sometime later, his codefendants moved closer to defendant’s corner and placed a brown paper bag on the ground. Defendant and his codefendants sold items from this bag. The police later recovered this bag and found that it held eleven zip lock bags of cocaine. When defendant and the others were arrested, the police found defendant carrying a large sum of money, but no drugs.

Although defendant did not possess drugs at his arrest, actual possession is not required to support a conviction. *Wolfe, supra*, 440 Mich 519-520; *People v Jones*, 201 Mich App 687, 688; 506 NW2d 599 (1993). Possession may be actual or constructive. *Wolfe, supra*, 440 Mich 520. Since defendant sold drugs from the brown paper bag recovered by police, he exercised dominion and control over the recovered cocaine, thus establishing his constructive possession of the illegal drugs. See *People v Konrad*, 449 Mich 263, 271; 536 NW2d 517 (1995).

Defendant’s intent to deliver can be inferred from the evidence that he supplied drugs to his codefendants. See *People v Ray*, 191 Mich App 706, 708; 479 NW2d 1 (1991); *People v Eggleston*, 149 Mich App 665, 668; 386 NW2d 637 (1986). These actions show that defendant provided knowing encouragement to his codefendants to aid their possession and delivery of cocaine. See *Sammons, supra*, 191 Mich App 371. Moreover, defendant’s intent to deliver can be inferred from the amount of illegal drugs involved and the packaging of the illegal drugs. See *Wolfe, supra*, 440 Mich 524. The recovered cocaine was packaged in eleven individual zip lock plastic bags, thus supporting an inference that they were intended for sale and not for individual use.

Therefore, viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could have concluded beyond a reasonable doubt that defendant aided and abetted the possession of cocaine with intent to deliver by knowingly assisting his codefendants’ narcotics transactions. See *Wolfe, supra*, 440 Mich 515.

Affirmed.

/s/ Roman S. Gribbs  
/s/ Robert P. Young, Jr.  
/s/ William J. Caprathe